

Working conditions in coal mines are extremely unpleasant. Coal dust in mines remains a problem, and that dust causes pneumoconiosis—black lung—the scourge of miners.

However, dust levels have been subject to controls for more than 10 years, and progress has been made in controlling dust since the Coal Mine Health and Safety Act became law in 1969.

We must maintain the momentum for progressive improvement in dust levels and in coal mine working conditions generally, so that miners will not have to fear either a quick death in an accident or a slow death from black lung disease.

The latent nature of pneumoconiosis must be recognized. An accumulation of coal dust in a miner's lungs may not produce clearly recognizable black lung symptoms immediately. These symptoms—coughing, spitting blood, and shortness of breath—may appear long after a miner's last exposure to coal dust.

The measure before the Senate attempts to provide for the financial integrity of the black lung disability trust fund. Unless the fund is bolstered, the entire black lung benefits program could be put in jeopardy in the future.

I compliment the manager of the bill, Mr. DOLE, and the ranking minority manager, Mr. LONG, on a very skillful job, and I express my personal appreciation to them in that regard.

Mr. DOLE, Mr. President, I ask for the yeas and nays:

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—63

Andrews	Danforth	Hatch
Armstrong	Denton	Hatfield
Baucus	Dixon	Hawkins
Boschwitz	Dodd	Havakawa
Burdick	Dole	Hefflin
Byrd	East	Heinz
Harry F. Jr.	Ford	Helms
Byrd, Robert C.	Garn	Hollings
Chafee	Glenn	Huddleston
Cochran	Gorton	Humphrey
Cohen	Grassley	Inouye
D'Amato	Hart	Jackson

Jepsen	Murkowski	Stafford
Johnston	Nickles	Stevens
Kennedy	Packwood	Symms
Laxalt	Pell	Thurmond
Leahy	Quayle	Tsongas
Long	Randolph	Wallop
Lugar	Rudman	Warner
Mathias	Schmitt	Williams
Matsunaga	Simpson	
Meicher	Specter	

NAYS—30

Abdnor	Eagleton	Pressler
Bentsen	Exon	Proxmire
Biden	Kassebaum	Pryor
Boren	Kasten	Riegle
Bradley	Levin	Roth
Bumpers	Mattingly	Sarbanes
Cannon	Metzenbaum	Sasser
Chiles	Mitchell	Stennis
DeConcini	Moyrhan	Walcker
Domenici	Nunn	Zorinsky

NOT VOTING—7

Baker	Goldwater	Tower
Cranston	McClure	
Durenberger	Percy	

So the bill (H.R. 5159) was passed.

Mr. DOLE, Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD CARRIER COMPETITION ACT

Mr. STEVENS, Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 271.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

Resolved, That the bill from the Senate (S. 271) entitled "An Act to repeal section 222 of the Communications Act of 1934", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be referred to as the "Record Carrier Competition Act of 1981".

COMPETITION AMONG RECORD CARRIERS

SEC. 2. Section 222 of the Communications Act of 1934 is amended to read as follows:

"COMPETITION AMONG RECORD CARRIERS

"Sec. 222. (a) For purposes of this section: (1) The term 'existing international record carrier' means any international record carrier which is eligible, on the date of the enactment of the Record Carrier Competition Act of 1981, to obtain record traffic from a record carrier in the United States for delivery outside the United States.

"(2) The term 'international record carrier' means any United States record carrier which derives a majority of its revenues during any calendar year from the provision of international record communications services between points of entry into or exit from the United States and points outside the United States.

"(3) The term 'primary existing international record carrier' means any existing international record carrier which is engaged in the direct provision of record communications services between the United States and 4 or more continents.

"(4) The term 'record carrier' means a common carrier engaged in the offering for hire of any record communications service, including service on interstate network facilities between 2 points located in the same State. Such term does not include any common carrier which derives a majority of its revenues during any calendar year from the provision of services other than record communications service.

"(5) The terms 'record communications facility' and 'facility' mean any telecommunications facility or equipment designed or used primarily to provide any record communications service.

"(6) The term 'record communications service' means any telecommunications service which is designed or used primarily to transfer information which originates or terminates in written or graphic form.

"(b)(1) The Commission shall, to the maximum extent feasible, promote the development of fully competitive domestic and international markets in the provision of record communications service, so that the public may obtain record communications service and facilities (including terminal equipment) the variety and price of which are governed by a fully competitive marketplace. The Commission shall reduce the extent to which it regulates record carriers as the development of competition among record carriers replaces the need for regulation to protect the public.

"(2) In furtherance of the purposes of this section, the Commission shall assure that none of the costs of regulated or unregulated record communications services and facilities (including terminal equipment) are borne by the users of any other record communications services.

"(c)(1)(A) Each record carrier shall make available to any other record carrier, upon reasonable request, full interconnection with any record communications service or record communications facility operated by such record carrier. Such record communications service or facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purposes of this section.

"(B)(i) If any record carrier engages both in the offering for hire of domestic record communications services and in the offering for hire of international record communications services, then such record carrier shall be treated as a separate domestic record carrier and a separate international record carrier for purposes of administering the interconnection requirements established in subparagraph (A).

"(i) In any case in which such separate domestic record carrier furnishes interconnection to such separate international record carrier, any interconnection which such separate domestic record carrier furnishes to other international record carriers shall be (1) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions.

"(iii) In any case in which such separate international record carrier furnishes interconnection to such separate domestic record carrier, any interconnection which such separate international record carrier furnishes to other domestic record carriers shall be (I) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions.

"(iv) (I) Subject to the provisions of subclause (II), if a request for interconnection under subparagraph (A) is for the purpose of providing international record communi-

communications service, then the agreement entered into under subparagraph (A) shall require that the allocation of record communications service between points outside the United States and points of entry in the United States shall be based upon a pro rata share of record communications service between points of exit out of the United States and points outside the United States provided by the carrier making such request for interconnection.

"(II) The requirement established in subclause (I) shall not apply in any case in which the customer requesting any record communications service between a point outside the United States and a point of entry in the United States has the option to specify the international record carrier which will provide such record communications service.

"(2) If any request made by a record carrier under paragraph (1) will require an agreement under which any record communications service or record communications facility operated by one of the parties to such agreement will be used by any other party to such agreement, then such agreement shall establish a nondiscriminatory formula for the equitable allocation of revenues derived from such use between the parties to such agreement, except that each party to such agreement shall have the right to establish the total price charged by such party to the public for any such service which is originated by such party, consistent with the provisions of section 203. To the extent possible, and consistent with the provisions of paragraph (3)(B)(ii), the Commission shall require that such equitable allocation of revenues be based upon the relative costs of the record communications service or facility employed as a result of such agreement.

"(3)(A) The Commission, as soon as practicable (but not later than 15 days) after the date of the enactment of the Record Carrier Competition Act of 1981, shall convene a meeting between (i) all existing international record carriers; and (ii) any record carriers which the Commission determines would be parties to any agreement under paragraph (1). Such meeting shall be held for the purpose of negotiating the agreement required in paragraph (1). Representatives of the Commission shall attend such meeting for purposes of monitoring such negotiations.

"(B)(i) If—

"(I) any record carriers specified in subparagraph (A)(ii); and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

fail to enter into an agreement before the end of the 45-day period following the beginning of such meeting; then the Commission shall issue an interim or final order which establishes a just, fair, reasonable, and non-discriminatory agreement which is consistent with the purposes of this section. Subject to the provisions of paragraph (4)(B), any such agreement established by the Commission shall be binding upon such carriers.

"(ii) Such interim or final order shall be issued not later than 90 days after the date on which the Commission convenes the meeting under subparagraph (A). If—

"(I) any record carriers specified in subparagraph (A)(ii); and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

reach an agreement which complies with the requirements of this section, and such agreement is entered into before the issuance of such order by the Commission under this subparagraph, then such agreement of the

parties shall take effect and the Commission shall not be required to issue any such order.

"(C) Any record carrier which is not subject to the agreement entered into, or established by the Commission, under this paragraph may elect to be subject to the terms of such agreement upon furnishing written notice to the Commission and to all existing parties to such agreement.

"(D)(i) The agreement entered into, or established by the Commission, under this paragraph shall terminate at the end of the 3-year period following the effective date of such agreement, except that the Commission shall have authority to provide that such agreement shall continue in effect if the Commission determines that such continuation is necessary to carry out the purposes of this section.

"(ii) After the expiration of such agreement, in any case in which a record carrier seeking interconnection in accordance with paragraph (1) is unable to enter into an agreement for the provision of such interconnection, the Commission shall have authority to establish an agreement for such interconnection in accordance with the provisions of this section.

"(E) No United States record carrier shall have any authority to enforce any provision contained in an agreement for the provision of record communications service or facilities which is entered into or renewed after the date of the enactment of the Record Carrier Competition Act of 1981, if the Commission determines that such provision impedes the development or operation of competitive record communications service markets.

"(4)(A) The Commission shall have authority to vacate or modify any agreement entered into by any record carriers under this section if the Commission determines that such agreement is not consistent with the purposes of this section. During the 3-year period specified in paragraph (3)(D)(i), the Commission shall vacate or modify any such agreement under this subparagraph if the Commission determines that such agreement discriminates against any carrier.

"(B) In any case in which the Commission issues an interim or final order under paragraph (3)(B), the parties which are specified in subclauses (I) and (II) of paragraph (3)(B)(ii) and which are subject to such order shall have authority to supersede the application of such order by entering into an agreement which is consistent with the purposes of this section, except that any such agreement shall be subject to the authority of the Commission under subparagraph (A).

"(5) In any case in which a United States record carrier (other than an international record carrier) submits an application to the Commission for authority to provide international record communications service, the Commission shall not have any authority to take any final action with respect to such application until the end of the 120-day period following the date a written agreement is entered into between such record carrier and existing international record carriers under paragraph (3) (or following the effective date of any interim or final order issued by the Commission under paragraph (3)(B) with respect to such carriers). The limitation upon Commission authority established in this paragraph shall expire at the end of the 210-day period following the date of the enactment of the Record Carrier Competition Act of 1981.

"(d) Each record carrier shall be authorized to provide record communications service in the United States domestic market and in the international market. Any such carrier seeking to provide such service, directly or indirectly, shall submit an application to the Commission under section 214. The Commission shall act expeditiously upon any such application."

COMMISSION OVERSIGHT OF DISTRIBUTION FORMULAS

SEC. 3. (a) Subject to the provisions of subsection (b), the Federal Communications Commission shall exercise its authority under the Communications Act of 1934 to continue its oversight of the establishment of just and reasonable distribution formulas for unrouted outbound telegraph traffic and the allocation of revenues with respect to such traffic, consistent with the purposes of section 222 of the Communications Act of 1934, as amended in section 2.

(b) The provisions of subsection (a) shall cease to have any force or effect at the end of the 1-year period beginning on the date of the enactment of this Act.

EFFECT OF AMENDMENT UPON CERTAIN CONTRACTS

SEC. 4. The amendment made in section 2 shall not affect the validity of the terms of any otherwise lawful contract relating to the distribution of outbound international record traffic between any domestic record carrier and any international record carrier if such contract was entered into before June 23, 1981.

Amend the title so as to read: "An Act to amend the Communications Act of 1934 to eliminate certain provisions relating to consolidations or mergers of telegraph and record carriers and to create a fully competitive marketplace in record carriage, and for other purposes."

UP AMENDMENT NO. 801

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senator GOLDWATER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for Mr. GOLDWATER proposes an unprinted amendment numbered 801.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert the following:

SHORT TITLE

SECTION 1. This Act may be referred to as the "Record Carrier Competition Act of 1981".

COMPETITION AMONG RECORD CARRIERS

SEC. 2. Section 222 of the Communications Act of 1934 is amended to read as follows:

"COMPETITION AMONG RECORD CARRIERS"

"SEC. 222. (a) For purposes of this section:

"(1) The term 'primary existing international record carrier' means any record carrier which (A) derives a majority of its revenues during any calendar year from the provision of international record communications services between points of entry into or exit from the United States and points outside the United States; (B) is eligible, on the date of the enactment of the Record Carrier Competition Act of 1981, to obtain record traffic from a record carrier in the United States for delivery outside the United States; and (C) is engaged in the direct provision of record communications services between the United States and four or more continents.

"(2) The term 'record carrier' means a common carrier engaged in the offering for hire of any record communications service, including service on interstate network facilities between two points located in the

same State. Such term does not include any common carrier which derives a majority of its revenues during any calendar year from the provision of services other than record communications service.

"(3) The term 'record communications service' means those services traditionally offered by telegraph companies, such as telegraph, telegram, telegram exchange, and similar services involving an interconnected network of teletypewriters.

"(b)(1) The Commission shall, to the maximum extent feasible, promote the development of fully competitive domestic and international markets in the provision of record communications service, so that the public may obtain record communications service and facilities (including terminal equipment) the variety and price of which are governed by competition. In order to meet the purposes of this section, the Commission shall forbear from exercising its authority under this Act as the development of competition among record carriers reduces the degree of regulation necessary to protect the public.

"(2) In furtherance of the purposes of this section, record carriers shall not impose upon users of any regulated record communications services the costs of any other services or facilities (including terminal equipment), whether regulated or unregulated.

"(c)(1)(A)(i) In implementing its responsibilities under section 201(a), the Commission shall require each record carrier to make available to any other record carriers, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purposes of this section.

"(ii)(I) Subject to the provisions of subsection (II), if a request for interconnection under clause (i) is for the purpose of providing international record communications service, then the agreement entered into under clause (i) shall require that the allocation of record communications service between points outside the United States and points of entry in the United States shall be based upon a pro rata share of record communications service between points of exit out of the United States and points outside the United States provided by the carrier making such request for interconnection.

"(II) The requirement established in subsection (I) shall not apply in any case in which the customer requesting any record communications service between a point outside the United States and a point of entry in the United States has the option to specify the international record carrier which will provide such record communications service.

"(B) The Commission shall require that—

"(1) if any record carrier engages both in the offering for hire of domestic record communications services and in the offering for hire of international record communications services, then such record carrier shall be treated as a separate domestic record carrier and a separate international record carrier for purposes of administering interconnection requirements;

"(ii) in any case in which such separate domestic record carrier furnishes interconnection to such separate international record carrier, any interconnection which such separate domestic record carrier furnishes to other international record carriers shall be (I) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions; and

"(iii) in any case in which such separate international record carrier furnishes interconnection to such separate domestic record carrier, any interconnection which such separate international record carrier furnishes to other domestic record carriers shall be (I) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions.

The requirements of clauses (i), (ii), and (iii) shall not apply to a record carrier if such record carrier does not have a significant share of the market for record communications services.

"(2) If any request made by a record carrier under paragraph (1)(A)(i) will require an agreement under which any record communications service or facility operated by one of the parties to such agreement will be used by any other party to such agreement, then such agreement shall establish a non-discriminatory formula for the equitable allocation of revenues derived from such use between the parties to such agreement, except that each party to such agreement shall have the right to establish the total price charged by such party to the public for any such service which is originated by such party, consistent with the provisions of section 203. To the extent possible, and consistent with the provisions of paragraph (3)(B)(ii), the Commission shall require that such equitable allocation of revenues be based upon the costs of the record communications service or facility employed as a result of such agreement.

"(3)(A) The Commission, as soon as practicable (but not later than 15 days) after the date of the enactment of the Record Carrier Competition Act of 1981, shall convene a meeting among all record carriers which the Commission determines would be parties to any agreement required by paragraph (1)(A)(i). Such meeting shall be held for the purpose of negotiating any such agreement. Representatives of the Commission shall attend such meeting for purposes of monitoring and presiding over such negotiations.

"(B)(i) In the case of any such required agreement, if—

"(I) the record carrier subject to the interconnection requirement; and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

fail to enter into an agreement before the end of the 45-day period following the beginning of such meeting, then the Commission shall issue an interim or final order which establishes a just, fair, reasonable, and nondiscriminatory agreement which is consistent with the purposes of this section. Any such agreement established by the Commission shall be binding upon such parties.

"(ii) Such interim or final order shall be issued not later than 90 days after the date on which the Commission convenes the meeting under subparagraph (A). In the case of any such required agreement, if—

"(I) the record carrier subject to the interconnection requirement; and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

reach an agreement which complies with the requirements of this section, and such agreement is entered into before the issuance of such order by the Commission under this subparagraph, then such agreement of the parties shall take effect and the Commission shall not be required to issue any such order.

"(C) Any record carrier which is not subject to the agreement entered into, or established by the Commission, under this paragraph may elect to be subject to the terms of such agreement upon furnishing written notice to the Commission, and to all existing parties to such agreement. After a carrier makes such an election, the terms and arrangements established by the agreement shall apply to such carrier to the extent practicable; as determined by the Commission.

"(4) The Commission shall have authority to vacate or modify any agreement entered into by any record carriers under this section if the Commission determines that (A) such agreement is not consistent with the purposes of this section; or (B) such agreement unjustly or unreasonably discriminates against any record carrier.

"(5) If the Western Union Telegraph Company submits an application to the Commission for authority to provide international record communications service, the Commission shall not have any authority to take any final action with respect to such application until the end of the 120-day period following the date a written agreement is entered into between such Company and other record carriers under paragraph (3), or following the effective date of any interim or final order issued by the Commission under paragraph (3)(B) with respect to such carriers. The limitation upon Commission authority established in this paragraph shall expire at the end of the 210-day period following the date of the enactment of the Record Carrier Competition Act of 1981.

"(d) Subject to the provisions of subsection (c)(5), each record carrier may provide record communications service in the United States domestic market and in the international market. Any record carrier seeking to provide domestic record communications service may provide such service without submitting an application to the Commission under section 214 unless the Commission requires such a submission. The Commission shall act expeditiously upon any application submitted pursuant to section 214.

"(e)(1) At the end of the 36-month period following the date of the enactment of the Record Carrier Competition Act of 1981, the provisions of subsection (c), other than paragraph (1)(B) of such subsection, shall cease to have any force or effect.

"(2) The provisions of paragraph (1) shall not be construed to affect the obligation of any carrier to interconnect with any other carrier pursuant to this Act."

COMMISSION OVERSIGHT OF DISTRIBUTION FORMULAS

SEC. 3. (a) Subject to the provisions of subsection (b), the Federal Communications Commission shall exercise its authority under the Communications Act of 1934 to continue its oversight of the establishment of just and reasonable distribution formulas for unrouted outbound telegraph traffic and the allocation of revenues with respect to such traffic, consistent with the purposes of section 222 of the Communications Act of 1934, as amended in section 2.

(b) The provisions of subsection (a) shall cease to have any force or effect at the end of the 1-year period beginning on the date of the enactment of this Act.

EFFECT OF AMENDMENT UPON CERTAIN CONTRACTS

SEC. 4: The amendment made in section 2 shall not affect the validity of the terms of any otherwise lawful contract relating to the distribution of outbound international record traffic between any domestic record

carrier and any international record carrier if such contract was entered into before June 23, 1981.

AMENDMENT TO OTHER LAW

SEC. 5. (a) Section 122(a) of the Rock Island Transition and Employee Assistance Act is amended by adding at the end thereof the following new sentence: "The Commission shall have authority to authorize continued rail service under this section over the lines of the Rock Island Railroad until the disposition of the properties of the estate of the Rock Island Railroad."

(b) The applicability of the amendment by subsection (a) to Interstate Commerce Commission Service Order 1498 shall expire at the end of May 15, 1982.

(By request of Mr. STEVENS the following statement was ordered to be printed in the RECORD:)

• Mr. GOLDWATER. Mr. President, S. 271, introduced on January 27, 1981, was passed by the Senate on June 23, 1981. It is designed to promote competition in the international telecommunications record markets by removing existing statutory barriers to Western Union entry into international markets.

The House of Representatives moved expeditiously to adopt its own version of S. 271. I congratulate the House on its success in moving this long-overdue legislation. The amendment I offer today is consistent with the goals of the Senate and House view—that the Communications Act not be a barrier to the development of a fully competitive international market.

This amendment would simplify the pending bill substantially. There were concerns that the Federal Communications Commission was not carrying out its responsibilities under the Communications Act of 1934 to insure fair and adequate interconnection arrangements among the affected carriers. In an effort to urge the Commission and the carriers to move expeditiously, the House has included statutory language which is clearly duplicative of existing Commission authority under the 1934 act. The duplication provisions are merely designed to settle the existing, outstanding, lingering disputes among record carriers regarding Western Union's obligations to interconnect for the provision of record services.

This bill would simply set a timetable for accomplishing these interconnection goals, have the interconnection arrangements in place for 3 years, and remove this added layer of regulation at the end of the 3-year period. Thereafter, the carriers and the Commission would continue to rely solely on the existing act's provisions, a carrier with a significant share of the market for record services, and which provides domestic and international services would be required to treat those domestic and international services separately. Interconnection between the international and domestic operations of any carrier would be made available to any other international or domestic carrier on a nondiscriminatory basis.

Whatever language of this bill duplicates that of the existing act must be interpreted as additional authority for the Commission—not as a substitute for

such existing authority. To the extent that the language of this bill and the act are in conflict, the language of the 1934 act must predominate. Of course, the issue of duplicative authority will disappear after 3 years when the regulatory provisions of this bill will "sun-set."

This bill further seeks to promote entry by new carriers into the international market. It assures that a carrier generating record traffic destined for outside the United States be guaranteed a pro rata share of inbound or return traffic. A new carrier will not benefit from this section once it obtains an operating agreement from a foreign country. Our hope is that this provision would encourage foreign telecommunications entities to deal with all U.S. carriers and to cease practices that exclude some carriers.

This amendment takes another step in the deregulation of domestic telecommunications markets. It requires that any record carrier seeking to provide domestic record communications services may do so without submitting an application under section 214 of the act, unless the Commission so orders. This relieves the Commission, in most cases, from finding that the public interest, convenience, and necessity would be served by the proposed domestic service.

Any carrier, however, seeking to provide international services will continue to file an application under section 214 of the act. The difference in treatment for international services is based upon our belief that the Commission still has a more significant role to play in the direction of the development of a truly competitive international marketplace.

It is also based upon our belief that, in time, our procompetitive policies will not be frustrated in foreign markets—but as of now, the international market needs greater coordinated U.S. influence.

This amendment expressly authorizes the Commission to forbear from regulating record carriers and their services as competition develops. This means that there is no provision in the existing 1934 act or in this bill that will require FCC action in a competitive record marketplace.

Finally, the provisions of S. 271 designed to expedite Commission processes must not be interpreted to relieve the Commission of its obligations under the Administrative Procedure Act.

Mr. President, I believe this amendment, simplifying and clarifying the goals of both Houses, will go far in assuring the development of competition in our record market. I, hereby, move its adoption.●

ROCK ISLAND RAILROAD AMENDMENT

Mrs. KASSEBAUM. Mr. President, I am grateful for the inclusion of this amendment which will clarify the power of the Interstate Commerce Commission to authorize continued rail service over the lines of the bankrupt Rock Island Railroad.

When Congress passed the Rock Island Transition and Employee Assistance Act of 1980, section 122 was included to per-

mit the ICC to allow continued service over these lines until final disposition of the properties of the bankrupt estate. Unfortunately, the courts have construed this section as authorizing the ICC to issue these service orders only on a temporary basis until the court approved a final abandonment. With respect to the Rock Island, a court order permitting abandonment became effective in March of this year. Accordingly, an existing ICC order that would have provided continued service over the Rock Island line serving Kansas, Oklahoma, and Texas has been invalidated by the courts, and this service is scheduled to cease on December 31.

Mr. President, the importance of rail service to the economy of the Midwestern States is well known. The old Rock Island rail system remains an economic lifeline to the Midwest. Huge volumes of agricultural and industrial products are transported over these lines. In Kansas, nearly 40 percent of the total commercial grain storage capacity is served by the Rock Island system. The consequences of the court's action will be to deprive approximately 77 cities, towns, and communities, and hundreds of shippers of rail service. In addition, approximately 400 railroad employees, most of whom are ex-Rock Island employees, will have to be released from service this month.

The amendment which I offer is intended to clarify what the congressional intent was in enacting section 122(a) of the Rock Island Transition and Employee Assistance Act. The House and Senate committees with jurisdiction understand the critical emergency facing shippers and communities in Texas, Oklahoma, and Kansas as a result of the Bankruptcy Court's recent interpretation of section 122(a). Because of this emergency situation, the House committee has agreed to accept this amendment, despite the lack of any hearings or committee action. However, the House committee feels strongly that it must have the opportunity to review this problem, and other problems related to the Rock Island Railroad, through normal committee procedures, next year. For that reason, the applicability of the amendment to the case giving rise to the Bankruptcy Court's interpretation of section 122(a) is effective only until May 15, 1982.

Mr. CANNON. Earlier this year the Senate passed S. 271 in order to remove the statutory ban on Western Union entering international markets. The Senate bill was a simple and straightforward repeal of section 222 of the Communications Act.

The House has taken S. 271 and amended it extensively. Most of the provisions inserted by the House are geared toward the transition from a highly regulated record carrier industry—both domestically and internationally—to one more competitive marketplace-oriented. It seems to me that these transition provisions are within the scope of the bill that the Senate enacted. My principal concern is not so much with the provision themselves, but to assure that we are truly moving toward less regulation and more competition in this industry.

Hence, today we are offering amendments to the House-passed version of this legislation that clarify the transition nature of most of the provisions. I believe that these changes will be acceptable to the House. The basic concept in these proposed amendments is that the Federal Communications Commission currently has the authority to do everything that the bill directs them to do. We are merely giving specific guidance during a transition period as to the regulatory policies that we want to emphasize.

Some of the provisions in the bill overlap with certain other parts of the current Communications Act. It is not the intent to override, either explicitly or implicitly, any other sections of the Communications Act. There is to be no implication drawn that in the absence of legislation the Commission does not have the same interconnection authority through section 201(a) as it does through this provision.

Nor are we saying that the Commission does not currently have the authority to forebear from regulation. We are simply providing policy guidance for the transition period. After that period of time, the bill makes it clear that the Commission has authority to continue its regulatory functions in the manner most consistent with promoting competition.

I think it is important to point out that this bill is a genuine deregulation bill in one major respect. It specifically removes the statutory barriers for entry into the domestic record carrier market. Applicants no longer need file applications under section 214 of the act unless specifically required to do so by the Commission. We have left a residual of FCC authority in this area to cover such contingencies as satellite applications or similar circumstances.

The Commission could also use its authority to require 214 applications by dominant carriers who do not now provide extensive record carrier service. In any case, it is the strong desire that the residual authority be used sparingly, if at all.

The domestic record carrier market is currently a virtual monopoly by one carrier. Open entry is the best solution to breaking that monopoly. The Commission should not exercise its authority except for technical considerations or to promote competition. Moreover, in light of this entry decontrol, we would encourage the Commission to examine other regulations imposed upon the record carrier industry and forebear from whatever regulation that is not necessary—including tariffs, reporting requirements, and so on.

By way of explanation, those provisions of the legislation that specifically do not apply to any record carrier not having a "significant market share" of the market for record communications services, leave the Commission with substantial discretion. In determining which carriers do or do not have a substantial market share at any given time, the FCC must look at the overall picture of the number of carriers involved and the various percentages of market share.

It is our view that currently all but four carriers would be exempted from these provisions—ITT World Communications, Inc.; RCA Global Communications, Inc.; TRT Telecommunications Corp.; and Western Union International, Inc. If in the future, smaller carriers build their market share to a substantial share, or if Western Telegraph Co. enters international markets, they would also be included.

There is another aspect of this bill that also warrants comment. The international telecommunications market has proven to be difficult for new carriers to enter because of the resistance by foreign telecommunications monopolies, the PTT's. We believe that this bill's interconnection guidance, including subsection (c) (1) (A) (ii)—the "inbound flow" provision, is a good first step in aiding U.S. carriers that want to enter the international record market. The Commission should explore other ways to aid U.S. entry overseas.

While the "inbound flow" part of the interconnection subsection ceases to have any force or effect 3 years after the date of enactment under the provisions of subsection (e) (1), the Commission has the authority under other provisions of the Communications Act, including section 201, to continue such a requirement if it finds that such a requirement will enhance competition in the international record communications market and there is not a more effective method of easing entry and thereby increasing competition in the international record communications market.

Mr. HOLLINGS. Mr. President, the amendment offered to the House amendment to S. 271 provides for a sunset of 3 years to the interconnection, including return flow, requirements of the bill. The purpose of these sunset amendments about to be agreed upon by the Senate is to fall back upon the general provisions of the Communications Act after the initial 3-year period of operation under the specific terms and conditions of interconnection and return flow detailed in this measure.

This is appropriate, Mr. President, because this bill, in our view, merely makes explicit authority already available to the FCC under section 201(a) and other sections of the act. Both during and after this 3-year start-up period, of course, other remedies in addition to the ones specified in this bill might be chosen by the Commission to achieve a competitive environment in international record telecommunications.

It would be completely consistent with these sunset provisions that the Commission at the end of or prior to the expiration of the 3-year period to extend these specific interconnection and return flow provisions and to adopt any other provisions deemed by them to assure the continuation of a competitive environment under the existing authority of the Communications Act as amended.

Indeed, if the new carriers that we expect might enter this business have not signed operating agreements with foreign

PTT's at that time, we would expect the FCC to continue the interconnection, including return flow, requirements in subpart (c). Rather than freezing in detailed remedies forever, the purpose of the sunset provision is to point the way and we are relying on the Commission's general authority to extend or modify these remedies to assure the continuing accomplishment of purposes of this act, that is, providing a competitive environment for both existing and new carriers in the international record carrier business.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I move that the Senate concur in the amendments of the House with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. HART. Mr. President, I wonder if the Senator from Alaska will yield for a question?

Mr. STEVENS. I am happy to yield.

Mr. HART. Mr. President, I do not want to be picky on this last day, but this Senator has a personal interest in a bill that is pending. I have been trying all day to find out what the schedule is. I wonder if the Senator from Alaska, as the floor manager, would lay out what the agenda is for all Senators?

Mr. STEVENS. I thank the Chair and I thank the Senator.

It is my understanding we are now going to proceed with bills which have passed the House or will pass the House if we get them to the House in time. Following that we will take up other matters, including, I believe, the matter in which the Senator from Colorado is deeply interested, the NRC bill, which we will get to as soon as we can. We have no similar assurance that the House will pass that bill today. We do have assurance the House will pass the bills we are working on at this point.

Mr. HART. I wonder if the Senator has any idea at what time we will be on that?

Mr. STEVENS. Our present process, as I understand it, is trying to handle the matters which would be almost pro forma and are going to take about the next hour, but not much more, and we will try to do it in less time than if it is possible.

Mr. HART. I thank the Senator.

CZECHOSLOVAKIAN CLAIMS SETTLEMENT ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1446.